

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Name: Lucero Danny
 (Last) (First) (Middle Initial)

Prisoner Number: J51467

Institutional Address: P.O. Box 689
Soledad, CA 93960

FILED

MAY -2 2019

SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTH DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Danny Lucero

(Enter your full name.)

vs.

Ralph Diaz

Kathleen Allison

Craig Koenig

(Enter the full name(s) of the defendant(s) in this action.)

CV 19-2397 JSW

Case No. _____
 (Provided by the clerk upon filing)

COMPLAINT UNDER THE
 CIVIL RIGHTS ACT,
 42 U.S.C. § 1983

I. Exhaustion of Administrative Remedies.

Note: You must exhaust available administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.

A. Place of present confinement Correctional Training Facility

B. Is there a grievance procedure in this institution? YES ☒ NO ☐

C. If so, did you present the facts in your complaint for review through the grievance procedure? YES ☒ NO ☐

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue any available level of appeal, explain why.

1. Informal appeal: Appeal was screened out due to an unconstitutional decision made by the appeals coordinator claiming that this action cannot be appealed prior to the event actually occurring.

- 1 2. First formal level: _____
 2 _____
 3 _____
 4 3. Second formal level: _____
 5 _____
 6 _____
 7 4. Third formal level: _____
 8 _____
 9 _____

10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES ☐ NO ☒

12 F. If you did not present your claim for review through the grievance procedure, explain why.
 13 Plaintiff was included in a Group 602 administrative appeal regarding this issue,
 14 however, prison officials refused to file and adjudicate said grievance. Moreover, in this
 15 exigent circumstance, Plaintiff will suffer irreparable harm unless the Court grants
 16 temporary relief to maintain the status quo pending exhaustion.

16 **II. Parties.**

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18 Danny Lucero - P.O. Box 689, Soledad CA 93960
 19 _____
 20 _____

21 B. For each defendant, provide full name, official position and place of employment.

22 Ralph Diaz - CDCR Acting Secretary; Sacramento CDCR Headquarters

23 Kathleen Allison - CDCR Acting Undersecretary; Sacramento CDCR Headquarters

24 Craig Koenig - CDCR Acting Warden; Correctional Training Facility, Soledad
 25 _____
 26 _____
 27 _____
 28 _____

III. Statement of Claim.

State briefly the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

On December 12, 2017, Defendant Allison authored a department memorandum which announced the expansion of the merging of the SNY (Sensitive Needs Yard/previously called Protective Custody) prisoners with the General Population prisoners in all Level 1 and Level 2 yards. On September 10, 2018, Defendant Diaz authored a department memorandum which sets forth the schedule for said merging of the yards. Said memo states the institution where Plaintiff is currently confined, i.e: Correctional Training Facility-South is scheduled to be merged with the SNY population in December 2018. As a result of the said merger, there was a major riot that occurred resulting in multiple injuries. It has been long understood by both the Courts and CDCR officials that SNY prisoners cannot safely merge with General Population prisoners. Each and every time these merges have taken place intentionally or unintentionally, there has been well documented incidents of violence, whether the SNY prisoners attacked and assaulted the GP prisoners out of fear for their lives or were attacked and assaulted themselves by GP prisoners. This planned merge would place Plaintiff at serious risk of harm or injury and in violation of his right to be protected from violence. These Defendants are well aware of and are completely disregarding such an excessive risk to Plaintiff's health and safety. Each of these defendants are being sued both in their individual and official capacities.

IV. Relief.

Your complaint must include a request for specific relief. State briefly exactly what you want the court to do for you. Do not make legal arguments and do not cite any cases or statutes. Issue a Temporary Restraining Order and Preliminary Injunction enjoining the named Defendants, their successors in office and employees and all other persons acting in concert and participation with them, from merging the SNY and GP prisoners together in what they refer to as Non-Designated Programming Facilities (NDPF); Issue a declaratory judgement stating that the Defendant's actions herein violate Plaintiff's Eight Amendment to the United States Constitution and constitute deliberate indifference to Plaintiff's health and safety; and a Permanent Injunction prohibiting Defendants, their successors in office and employees and all other persons acting in concert and participation with them, from merging SNY and GP prisoners together.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on: 4-5-19
Date

Danny Juan
Signature of Plaintiff